

## Summary of leave provisions in the 2020 Families First Coronavirus Response Act

The federal Families First Coronavirus Response Act was passed by Congress on March 18, 2020. It includes two different employee leave acts. The *Emergency Family and Medical Leave Expansion Act* provides paid and unpaid leave to employees who need to care for a minor child due to a COVID-19-related school or child care closure. The *Emergency Paid Sick Leave Act* provides paid leave to employees based on their own COVID-19 health related issues -- individuals who are caring for someone with COVID-19 issues, or who need to care for a minor child due to a COVID-19-related school or child care closure.

The provisions of the laws must be implemented on or before April 2, 2020 and expire on December 31, 2020.

The basic provisions of the acts are described below.

### **How the Emergency FML Expansion Act applies to state employees:**

1. To receive COVID-19 FMLA, a state employee must have been employed for at least 30 days. This replaces the normal 12 month/1250 hour requirements.
2. The state continues to be defined as an employer under the expansion amendment.
3. Eligible employees continue to be entitled to receive up to 12 weeks of FMLA for a qualifying condition. In addition to the previous qualifying conditions, an employee may receive leave for a *qualifying need related to a public health emergency*. This qualifying condition applies when the employee is unable to work or telework because they need to care for a minor child because the child's school or place of care has closed, or the child care provider for the minor child is unavailable due to COVID-19. A child care provider is a provider who receives compensation for providing child care services on a regular basis.
4. The first 10 days of COVID-19 FMLA leave is unpaid. The employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave.
5. For each day after the first 10 days of COVID-19 FMLA, the employer must provide paid leave. Paid leave is based on the number of hours the employee would otherwise be normally scheduled to work and an amount that is not less than two-thirds of an employee's regular rate of pay. There is a calculation for employees with a varying schedule. The amount of paid leave shall not exceed \$200/day or \$10,000 aggregate for the duration of the absence.

6. An employer may elect to exclude health care providers or emergency responders from COVID-19 FMLA.

**How the Emergency Paid Sick Leave Act applies to state employees**

1. An employer must provide an employee with paid sick leave if the employee is unable to work or telework because:
  - a) The employee is subject to a federal, state or local isolation or quarantine order due to COVID-19.
  - b) A health care provider has advised the employee to self-quarantine due to COVID-19 concerns.
  - c) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
  - d) The employee is caring for an individual who is subject to federal, state or local isolation or quarantine order due to COVID-19 or has been advised by a health care provider to self-quarantine due to COVID-19 concerns.
  - e) The employee needs to care for a minor child because the child's school or place of care has closed or the child care provider for the minor child is unavailable due to COVID-19.
  - f) The employee is experiencing any other substantially similar condition specified by the U.S. Secretary of Health and Human Services.
2. An employer may exclude employees who are health care providers or emergency responders from receiving the leave.
3. There is no minimum period of employment to be eligible for paid sick leave.
4. Full-time employees are entitled to 80 hours of paid sick leave; part-time employees to the number of hours the employee works on average over a two week period. Leave cannot be carried over from one year to the next.
5. An employer may not require an employee to use other paid leave provided by the employer before using paid sick leave under the Act.
6. When an employee is experiencing symptoms or is in isolation, paid sick leave shall not be less than the employee's regular rate of pay and may not exceed \$511/day or \$5,110 in the aggregate; for conditions related to caring for another individual or school or child care closure, paid sick leave shall be 2/3 of the employee's regular rate of pay and may not exceed \$200/day or \$2,000 in the aggregate.
7. Paid sick leave ends beginning with the employee's next scheduled shift immediately following the termination of the qualifying condition.

8. The employer must post notices provided by the Secretary of Labor.
9. The act does not diminish benefits the employee is entitled to under other laws, collective bargaining agreements or employer policy.